UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/087,679
Filing Date: March 01, 2002
Appellant(s): BARRY ET AL.

Huneter E. Webb
Reg. No. 54,593
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 25 June 2009 appealing from the Office

action mailed 23 January 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

"Adobe GoLive 5.0 User Guide," 2000, Adobe Systems Incorporated, pp. 1, 82-99, 144-149, 377-379.

6668353	Yurkovich	12-2003
6434500	Boehne et al.	8-2002
6724918	Yen et al.	4-2004
6724918	Stern	4-2004
6656050	Busch et al.	12-2003
5787445	Daberko	07-1998
6643652	Helgeson et al.	11-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 1, 4, 7-9, 22, 25 and 28 are rejected under 35 U.S.C. 103(a) as being

unpatentable over <u>Adobe GoLive 5.0 User Guide</u>, (publisher Adobe, published 2000,

pages 82-94, 144-149, and 377-379 and newly cited pages 95-98, hereafter Adobe),

and further in view of Yurkovic (US 6668353, filed 25 March 1999) and further in view of

Boehne et al. (US 6434500, filed 18 October 1999, hereafter Boehne).

As per independent claim 1, Adobe discloses a system for developing a website,

comprising:

- A content system for enabling a developer of a website to provide content for

    web pages of the website, wherein the web pages have defined categories

    based on location within the website into which the content is arranged, each

    category being defined based on a type of content information (pages 85, 377-

    379: Here, the website is shown as having the content arranged into at least two

    categories, images and pages; pages 94-98: Here, a page hierarchy is used

    within a website. The hierarchy is used to group similar pages into categories

    based upon the location of a page within the website)

- A site diagram system for enabling a developer to dynamically defining and

    depicting a relationship between the web pages (pages 92-94)

- A breadcrumb system for enabling a developer to specify whether breadcrumb

    code is inserted into the web pages (pages 148-149: Here, a breadcrumb mode

    is a form of history tracking. Adobe teaches maintaining a history of the changes

    to a page)

- Wherein the content, the relationship and the breadcrumb code of the website is adapted to be developed by a creator that has no knowledge of web-based programming and has no knowledge of HTML (page 1: Here, Adobe discloses the ability of a user to create a webpage without having any HTML knowledge)

Adobe fails to specifically disclose wherein the arranged content is defined by the type of subject matter of the information in the content and a calendaring system for keeping track of calendar data. However, Yurkovic discloses a portal page wherein content within a webpage is arranged based on the type of subject matter within the page, and a calendaring system for keeping track of calendar data (Figure 1; column 4, lines 35-50: Here, the web portal arranges data based upon a plurality of subjects. The data is arranged into sections, such as "News," "Your Items," and "Business Applications." Further, a calendar allows a user to keep track of appointments and other calendar events). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Yurkovic with Adobe, since it would have allowed a user to arrange information based upon the subject matter of the information in the content.

Adobe further fails to disclose use of a feedback system for receiving and tracking feedback related to the website. However, Boehne discloses the use of feedback systems within websites (column 3, lines 15-35). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Boehne with Adobe, since it would have allowed a user to utilize the communication facilities of the feedback to determine successful elements of a website.

As per dependent claim 4, Adobe, Yurkovic, and Boehne disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Adobe further discloses:

- A side bar system for defining a side bar information (page 231-232: Here, a frame is a side bar containing information, such as a menu)

- A link system for defining links within the content (pages 144-147)

- A view system for generating a list of current content and corresponding links, based on at least one predetermined criterion (page 90)

- A template system for defining a template for the web pages (page 82)

As per dependent claim 7, Adobe, Mueller, and Boehne disclose the limitation similar to those in claim 1, and the same rejection is incorporated herein. Adobe further discloses wherein the breadcrumb code allows a reader of the website to view a list of web page links corresponding to web pages of the website visited by the reader, and further allows the reader to select a particular link on the list to return to the corresponding web page (pages 148-149).

As per dependent claim 8, Adobe, Yurkovic, and Boehne disclose the limitation similar to those in claim 1, and the same rejection is incorporated herein. Adobe further discloses wherein the site diagram system depicts the relationship as links on the website (pages 92-94).

As per independent claim 9, Adobe discloses a system for developing a website, comprising:

- A content system for providing content for web pages of the website, wherein the web pages have defined categories into which the content is arranged (pages 85, 377-379: Here, the website is shown as having the content arranged into at least two categories, images and pages)

- A category system for defining categories for the web pages and for assigning creator groups thereto, wherein the content for the categories can be defined only the assigned creator groups (pages 1, 85, and 148-149)

- A site diagram system for dynamically defining and depicting a relationship between the web pages (pages 92-94)

- A breadcrumb system for inserting breadcrumb code into the web pages (pages 148-149: Here, a history of the changes to a page is maintained)

- Wherein the creator groups include creators chosen from the group consisting of: authors who prepare the content for posting to the website, editors who edit the content submitted by the authors and administrators who approve the content (page 1)

- Wherein the content, the relationship and the breadcrumb code of the website is adapted to be developed by a creator that has no knowledge of web-based programming (page 1)

Adobe fails to specifically disclose wherein the arranged content is defined by the type of subject matter of the information in the content. However, Yurkovic discloses a portal page wherein content within a webpage is arranged based on the type of subject matter within the page (Figure 1; column 4, lines 35-50: Here, the web portal arranges

data based upon a plurality of subjects. The data is arranged into sections, such as "News," "Your Items," and "Business Applications." Further, a calendar allows a user to keep track of appointments and other calendar events). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Yurkovic with Adobe, since it would have allowed a user to arrange information based upon the subject matter of the information in the content.

Adobe further fails to disclose use of a feedback system for receiving and tracking feedback related to the website. However, Boehne discloses the use of feedback systems within websites (column 3, lines 15-35). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Boehne with Adobe, since it would have allowed a user to utilize the communication facilities of the feedback to determine successful elements of a website.

As per independent claim 22, the applicant discloses the limitations similar to those in claim 1. Claim 22 is similarly rejected.

As per dependent claim 25, the applicant discloses the limitations similar to those in claim 4. Claim 25 is similarly rejected.

As per dependent claim 28, the applicant discloses the limitations similar to those in claim 7. Claim 28 is similarly rejected.

Claims 2, 12, 23, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe, Yurkovic, and Boehne, and further in view of Yen et al. (US 6724918, filed 9 May 2000, hereafter Yen).

As per dependent claim 2, Adobe, Yurkovic, and Boehne disclose the limitations

similar to those in claim 1, and the same rejection is incorporated herein. Adobe further

discloses:

- A category system for defining the categories and assigning creator groups

  thereto, wherein the content for the categories can be defined only the assigned

  creator groups (pages 1 and 85)

- A record system for tracking changes to the content (pages 148-149)

- Wherein the creator groups include creators chosen from the group consisting of:

  authors who prepare the content for posting to the website, editors who edit the

  content submitted by the authors and administrators who approve the content

  (page 1)

Adobe fails to specifically disclose use of a metric system for tracking access to

the web pages. However, Yen discloses use of a metric system for tracking access to

the web pages (column 5, lines 35-55). It would have been obvious to one of ordinary

skill in the art at the time of the applicant's invention to have combined Yen with Adobe,

since it would have allowed a user to enforce collaborative privileges.

As per dependent claim 12, Adobe, Yurkovic, and Boehne disclose the limitations

similar to those in claim 9, and the same rejection is incorporated herein. Adobe further

discloses a record system for tracking changes to the content (pages 148-149).

Adobe fails to specifically disclose wherein the arranged content is defined by the

type of subject matter of the information in the content and a calendaring system for

keeping track of calendar data. However, Yurkovic discloses a portal page wherein

content within a webpage is arranged based on the type of subject matter within the page, and a calendaring system for keeping track of calendar data (Figure 1; column 4, lines 35-50: Here, the web portal arranges data based upon a plurality of subjects. The data is arranged into sections, such as "News," "Your Items," and "Business Applications." Further, a calendar allows a user to keep track of appointments and other calendar events). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Yurkovic with Adobe, since it would have allowed a user to arrange information based upon the subject matter of the information in the content.

Adobe further fails to specifically disclose a metric system for tracking access to the web pages. However, Yen discloses use of a metric system for tracking access to the web pages (column 5, lines 35-55). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Yen with Adobe, since it would have allowed a user to enforce collaborative privileges.

As per dependent claim 23, the applicant discloses the limitations similar to those in claim 2. Claim 23 is similarly rejected.

As per independent claim 29, the applicant discloses the limitations similar to those in claims 1, 2, and 8 respectively. Claim 29 is similarly rejected.

Claims 3 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe, Yurkovic, and Boehne, and further in view of Stern (US 6724918, filed 9 May 2000).

As per dependent claim 3, Adobe, Yurkovic, and Boehne disclose the limitations similar to those in claim 1, and the same rejection is incorporated herein. Adobe fails to specifically disclose:

- A subscription system for subscribing to the website and for generating an alert to subscribers when new content is posted on the website

- A currency system for generating a reminder to update the content

- An information system for generating a list of new content that is posted to the website

However, Stern discloses:

- A subscription system for subscribing to the website and for generating an alert to subscribers when new content is posted on the website

- A currency system for generating a reminder to update the content

- An information system for generating a list of new content that is posted to the website (column 10, line 50- column 11, line 5).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Stern with Adobe, since it would have allowed a user to alert users of updated content (Stern: column 10, line 50- column 11, line 5).

As per dependent claim 24, the applicant discloses the limitations similar to those in claim 3. Claim 24 is similarly rejected.

Claims 5 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe, Yurkovic, and Boehne, and further in view of Busch et al. (US 6656050, filed 3

August 2001, hereafter Busch) and further in view of Daberko (US 5787445, filed 7

March 1996).

As per dependent claim 5, Adobe, Yurkovic, and Boehne disclose the limitation

similar to those in claim 1, and the same rejection is incorporated herein. Adobe further

discloses a role system for defining roles of creators of the website (page 1).

However, Adobe fails to specifically disclose a promotion system for defining a

promotion schedule for content to be posted on the web pages. But, Busch discloses a

promotion system for defining a promotion schedule for content to be posted on the web

pages (column 1, lines 10-35). It would have been obvious to one of ordinary skill in the

art at the time of the applicant's invention to have combined Busch with Adobe, since it

would have allowed a user to introduce sweepstakes capability into web pages.

Adobe further fails to disclose a removal system for defining whether the content

is hidden, deleted, or archived. However, Daberko discloses a removal system for

defining whether the content is hidden, deleted, or archived (column 21, table 2). It

would have been obvious to one of ordinary skill in the art at the time of the applicant's

invention to have combined Daberko with Adobe, since it would have allowed a user to

flag data to be hidden, deleted, or archived.

As per dependent claim 26, the applicant discloses the limitations similar to those

in claim 5. Claim 26 is similarly rejected.

Claims 6, 10-11, 16-17, 20, and 27 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Adobe, Yurkovic, and Boehne, and further in view of Helgeson et al.

(US 6643652, filed 12 January 2001, hereafter Helgeson).

As per dependent claim 6, Adobe, Yurkovic, and Boehne disclose the limitation

similar to those in claim 1, and the same rejection is incorporated herein. Adobe fails to

specifically disclose a loading system for converting the content from a non-HTML

format into an HTML format and for loading the web pages onto a web server.

However, Helgeson discloses a loading system for converting the content from a non-

HTML format into an HTML format and for loading the web pages onto a web server

(column 134, line 65- column 135, line 25). It would have been obvious to one of

ordinary skill in the art at the time of the applicant's invention to have combined

Helgeson with Adobe, since it would have allowed a user convert non-HTML elements

to markup code for display over a network.

As per dependent claims 10 and 11, the applicant discloses the limitations similar

to those in claim 6. Claims 10 and 11 are similarly rejected.

As per independent claim 16, Adobe discloses a method for developing a

website, comprising the steps of:

- Defining categories for web pages of the website (pages 1 and 85)

- Assigning a creator group to each of the categories (page 1)

- Defining a depicting a hierarchical relationship between the web pages (pages
  92-94)

- Inserting breadcrumb code into the web pages (pages 148-149)

- Wherein the creator groups include creators chosen from the group consisting of: authors who prepare the content for posting to the website, editors who edit the content submitted by the authors, and administrators who approve the content (page 1)

- Wherein the content, the relationship, and the breadcrumb code of the website are adapted to be developed by a creator that has no knowledge of web-based programming (page 1)

Adobe fails to specifically disclose wherein the arranged content is defined by the type of subject matter of the information in the content. However, Yurkovic discloses a portal page wherein content within a webpage is arranged based on the type of subject matter within the page (Figure 1; column 4, lines 35-50: Here, the web portal arranges data based upon a plurality of subjects. The data is arranged into sections, such as "News," "Your Items," and "Business Applications." Further, a calendar allows a user to keep track of appointments and other calendar events). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Yurkovic with Adobe, since it would have allowed a user to arrange information based upon the subject matter of the information in the content.

Adobe fails to specifically disclose use of a feedback system for receiving and tracking feedback related to the website. However, Boehne discloses the use of feedback systems within websites (column 3, lines 15-35). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have

combined Boehne with Adobe, since it would have allowed a user to utilize the communication facilities of the feedback to determine successful elements of a website.

Adobe further fails to specifically disclose a loading system for converting the content from a non-HTML format. However, Helgeson discloses a loading system for converting the content from a non-HTML format into an HTML format and for loading the web pages onto a web server (column 134, line 65- column 135, line 25). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Helgeson with Adobe, since it would have allowed a user convert non-HTML elements to markup code for display over a network.

As per dependent claim 17, the applicant discloses the limitations similar to those in claim 6. Claim 17 is similarly rejected.

As per dependent claim 20, the applicant discloses the limitations similar to those in claim 4. Claim 20 is similarly rejected.

As per dependent claim 27, the applicant discloses the limitations similar to those in claim 6. Claim 27 is similarly rejected.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe, Yurkovic, Boehne, and Yen and further in view of Stern.

As per dependent claim 13, the applicant discloses the limitations similar to those in claim 3. Claim 13 is similarly rejected.

As per dependent claim 14, the applicant discloses the limitations similar to those in claim 4. Claim 14 is similarly rejected.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe,

Yurkovic, Boehne, Yen, Stern, and further in view of Busch and further in view of

Daberko.

As per dependent claim 15, the applicant discloses the limitation similar to those

in claim 5. Claim 15 is similarly rejected.

Claim 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe,

Yurkovic, Boehne, Helgeson and further view of Yen.

As per dependent claim 18, Adobe, Yurkovic, Boehne, and Helgeson disclose

the limitations similar to those in claim 16, and the same rejection is incorporated

herein. Adobe further discloses a record system for tracking changes to the content

(pages 148-149).

Adobe fails to specifically disclose wherein the arranged content is defined by the

type of subject matter of the information in the content and a calendaring system for

keeping track of calendar data. However, Yurkovic discloses a portal page wherein

content within a webpage is arranged based on the type of subject matter within the

page, and a calendaring system for keeping track of calendar data (Figure 1; column 4,

lines 35-50: Here, the web portal arranges data based upon a plurality of subjects. The

data is arranged into sections, such as "News," "Your Items," and "Business

Applications." Further, a calendar allows a user to keep track of appointments and

other calendar events). It would have been obvious to one of ordinary skill in the art at

the time of the applicant's invention to have combined Yurkovic with Adobe, since it

would have allowed a user to arrange information based upon the subject matter of the information in the content.

Adobe further fails to specifically disclose a metric system for tracking access to the web pages. However, Yen discloses use of a metric system for tracking access to the web pages (column 5, lines 35-55). It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined Yen with Adobe, since it would have allowed a user to enforce collaborative privileges.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe, Yurkovic, Boehne, Helgeson and further in view of Stern.

As per dependent claim 19, the applicant discloses the limitations similar to those in claim 3. Claim 19 is similarly rejected.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adobe, Yurkovic, Boehne, and Helgeson and further in view of Busch and further in view of Daberko.

As per dependent claim 21, the applicant discloses the limitations similar to those in claim 5. Claim 21 is similarly rejected.

(10) Response to Argument

The appellant's initial argument is based upon the belief that the prior art fails to teach or suggest a content system for enabling a developer to provide content for web

pages of the website, wherein the web pages have defined categories into which the content is arranged, each category being defined based on a type of subject matter of information in the content (pages 8-9). The examiner respectfully disagrees. Adobe discloses a content system for enabling a developer of a website to provide content for web pages of a website. Here, the web pages have defined categories based on location within the website, into which the content is arranged based on a type of content information (pages 85, 377-379). The page hierarchy serves to categorize the content of the web pages within the website. Additionally, content is separated within the hierarchy. Images are contained within a website image folder, while the text of the website is contained within pages in the hierarchy.

Although Adobe fails to specifically disclose arrangement of content based upon the subject matter of the content, Yurkovich discloses arrangement of content based upon the subject matter of the content (Figure 1). While the applicant argues that Yurkovich fails to teach or suggest that location based portions of the web page themselves are arranged into categories based on the type of information (page 9). However, the examiner respectfully disagrees. Yurkovich discloses the arrangement of data based upon a plurality of headings, including, "Your Items (Item 110)," "Business Applications (Item 112)," "Services and Transactions (Item 114)," "Quick Links (Item 116)," "Training and Reference (Item 118)," and "Business Communications (Item 120)." Therefore, the content is arranged upon the page based upon the subject matter of the content, and the appellant's argument is not persuasive.

The appellant's second argument is based upon the belief that the prior art fails to disclose a breadcrumb system for enabling a developer to specify whether breadcrumb code is inserted into the web pages (pages 9-10). Again, the examiner respectfully disagrees. Adobe discloses a user, developing a website, is presented with a history palette. This history palette is a breadcrumb system, tracking changes to the webpage (pages 148-149). The changes themselves, constitute breadcrumb code, which is inserted into the webpage. This history palette, or breadcrumb system, maintains a history of the inserted changes, or breadcrumb code, in order for the developer to view the evolution of a webpage. Therefore, this argument is not persuasive.

The appellant further argues that the prior art fails to disclose a calendar system for defining a calendar within a website (page 11). The examiner respectfully disagrees. The appellant is correct in stating that Adobe fails to disclose this limitation. However, Yurkovich discloses a calendar system defined within a website (Figure 1; column 4, lines 35-50). In order for the calendar of Yurkovich to be placed inside the website or Yurkovich, the calendar must be defined. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined the use of a calendar system within a website with the website development system of Adobe. This would have allowed a website developer to easily insert a calendar into his/her created website. For this reason, this argument is not persuasive.

The applicant presents a similar argument with respect to Boehne (page 11). Boehhne discloses a feedback system (column 3, lines 15-35). In order for the

feedback system of Boehne to be realized, the feedback system must first be defined. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have combined the use of a feedback system within a website with the website development system of Adobe. This would have allowed a website developer to easily insert a feedback system, to provide a developer with feedback, into his/her created website. For this reason, this argument is not persuasive.

The appellant further argues that the references all perform their functions within a different environment (page 11). However, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The combined references would have suggested to one of ordinary skill in the art at the time of the applicant's invention to provide a website developer with tools to incorporate a categorize content, and to incorporate both a calendar system and a feedback system into a website. Incorporating such features would have provided an end user with a robust website, capable of maintaining end user appointments and providing feedback to a site developer.

The appellant further argues that the examiner's rejection of claim 1 relies upon 3 references. However, although the appellant feels that three references is a large number of references, the reliance on a large number of references in a rejection does

not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

The appellant's remaining arguments are all based upon the arguments presented with respect to claim 1 (pages 12-14). These arguments are similarly not persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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